

**CITY COUNCIL MEETING  
MINUTES  
May 31, 2022**

**1. CALL TO ORDER & PLEDGE OF ALLEGIANCE IN HONOR OF THE US MILITARY TROOPS**

The City Council Meeting was held via Zoom videoconference and broadcast from the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Vincent Salimi called the Special Meeting of the City Council to order at 6:01 p.m. and led the Pledge of Allegiance.

**2. LAND ACKNOWLEDGEMENT**

*Before we begin, we would like to acknowledge the Ohlone people, who are the traditional custodians of this land. We pay our respects to the Ohlone elders, past, present and future, who call this place, Ohlone Land, the land that Pinole sits upon, their home. We are proud to continue their tradition of coming together and growing as a community. We thank the Ohlone community for their stewardship and support, and we look forward to strengthening our ties as we continue our relationship of mutual respect and understanding.*

**3. ROLL CALL, CITY CLERK'S REPORT & STATEMENT OF CONFLICT**

*An official who has a conflict must, prior to consideration of the decision; (1) publicly identify in detail the financial interest that causes the conflict; (2) recuse himself/herself from discussing and voting on the matter; and (3) leave the room until after the decision has been made, Cal. Gov. Code § 87105.*

**A. COUNCILMEMBERS PRESENT**

Vincent Salimi, Mayor  
Devin Murphy, Mayor Pro Tem  
Norma Martinez-Rubin, Council Member  
Anthony Tave, Council Member  
Maureen Toms, Council Member

**B. STAFF PRESENT**

Andrew Murray, City Manager  
Heather Bell, City Clerk  
Eric Casher, City Attorney  
Alex Mog, Assistant City Attorney  
Markisha Guillory, Finance Director  
Roxane Stone, Deputy City Clerk

City Clerk Heather Bell announced the agenda had been posted on Thursday, May 26, 2022 at 4:00 p.m. with all legally required written notices. Written correspondence had been received in advance of the meeting, distributed to the City Council and posted on the City website in advance of the meeting.

Following an inquiry, the Council reported there were no conflicts with any items on the agenda.

Mayor Salimi reported the City Council would resume in-person meetings on June 7, 2022.

#### **4. CITIZENS TO BE HEARD (Public Comments)**

*Citizens may speak under any item not listed on the Agenda. The time limit is 3 minutes and is subject to modification by the Mayor. Individuals may not share or offer time to another speaker. Pursuant to provisions of the Brown Act, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist. The City Council may direct staff to investigate and/or schedule certain matters for consideration at a future Council meeting*

Roxane Stone, Deputy City Clerk reported there were no comments for this item.

#### **5. WORKSHOP ITEMS**

##### **A. Charter City Ballot Measure Polling Results [Action: Receive Report (Murray)]**

City Manager Andrew Murray explained that the agenda item was a workshop to receive the polling results for the Charter City Ballot Measure. The City Council had directed staff to hire consultants to conduct research and communication regarding a potential November 2022 ballot measure to become a Charter City and to enact an increased Real Property Transfer Tax (RPTT). Lew Edwards Group (LEG) and Fairbank, Maslin, Maullin, Metz & Associates, Inc. (FM3) would present the results of the likely voter survey that had been conducted regarding the potential November 2022 ballot measure.

Catherine Lew, President, Co-Founder, Lew Edwards Group (LEG), introduced the members of the LEG Team and FM3 Team present via Zoom, including Robert Dempsey, LEG Project Manager; Curtis Below, Chief Operating Officer (COO) and Partner FM3; and Lucia Del Puppo, Vice President and Researcher, FM3.

An extensive PowerPoint presentation titled: Pinole Voters Attitudes Toward a Charter City Amendment Measure, the Key Findings of Citywide Survey Conducted May 13-22, 2022, included an overview of the background of LEG and the project objectives to conduct a comprehensive, statistically valid survey to determine current constituent viewpoints on their service priorities, satisfaction, and perspectives on a potential charter measure/RPTT. It also included a thorough preparation for undertaking a highly tailored study to the City of Pinole with a report back on the results and the key considerations the Council should consider in deciding whether to place this item on the November 2022 ballot.

Ms. Lew detailed the key survey highlights and stated that while in a very polarized environment, the City of Pinole had received very high satisfaction and job performance ratings with overall quality of life ratings in the high 80 percentiles. Respondents had been satisfied with safety, infrastructure, streets and roads and COVID response, and were essentially all at two-thirds and by a ratio of 2:1, whereby a plurality had approved the City's management of its finances; however, these positive strong ratings also appeared to affect respondent views on the need for a Charter City RPTT measure affecting the viability of this approach and the measure proponents did not reach the threshold needed for passage on the third ballot test.

Curtis Below, COO and Partner FM3, continued the PowerPoint presentation and detailed the data for the survey specifics and methodology that had been used for the dual-mode voter survey. He highlighted how respondents had viewed life in Pinole based on comparison points from November 2019 to May 2022; problems facing the community; opinions of Pinole's City

government with a positive ratio received and with respondents highly satisfied with a number of aspects of life in Pinole and with City services. The majority of respondents saw a need for funding for City services and for infrastructure but few saw a great need. Respondents also offered strong support for participatory budgeting, improving walkability and adopting climate-friendly policies.

Mr. Below also detailed the Potential Ballot Measure Language Tested for the Charter City/RPTT, with respondents initially split on the proposed Charter City amendment and RPTT measure with the proposed rate and with little difference in the responses. Demographic group breakout details were also provided on the potential ballot measure language. Responses on the ways and priority of how funds could be spent if the RPTT measure were to pass were also highlighted.

Mr. Below further detailed the results from respondents after consideration of supportive and critical statements for the proposed ballot measure and provided the results from respondents from a potential bond measure related to a City of Pinole Road and Infrastructure Measure, with respondents split on a potential bond measure.

Based on the survey results, it had been concluded that Pinole voters were highly satisfied with life in the City with things headed in the right direction by a 2:1 ratio. A majority viewed City government favorably and voters rated the City's safety and quality of life very highly. Drought and climate change were seen as the top problems in the area while cost of living, cost of housing, (and to a lesser extent) traffic appeared to be close second-tier concerns. A majority saw a need for additional funding for City services and for infrastructure but few identified a great need. Voters were strongly supportive of adopting participatory budgeting and improving walkability and while they viewed climate change as a major problem and supported adopting climate-friendly policies, they had been divided on a policy requiring new homes to be fully electric.

In terms of the ballot measure viability, an infrastructure bond did not appear to be viable at this point in time. Voters appeared to be divided on a proposed Charter City amendment to levy a RPTT with more initial intensity among opponents than supporters. Support did eclipse the majority vote threshold for a lower tax rate after only supportive statements, but dropped appreciably in the face of criticism with critical statements seen as more intensely compelling than supportive statements. With a generally content electorate that did not currently see additional funding as critical for the City, passing such a measure would likely be very challenging in 2022, especially when concerns about the rising cost of living were so intensely held and success of a measure, now or in the future, would likely depend upon changing opinions of the need for funding, the kind of change of perception that often took time and a coordinated education and communication effort.

Ms. Lew explained that while it was true some successful cities had started lower in their initial tests than the City of Pinole's results had shown, they also ended at or above the Margin of Error (MOE) on the third ballot test by the end of their respective surveys. In order for LEG to recommend proceeding a given city generally needed to be above the MOE on the third ballot test. Other successful cities had lower satisfaction ratings, while Pinole's were very high, potentially affecting perceptions of the need for this approach, but while the City's tested measure did not meet LEG's criteria for placement on the ballot, should the City Council wish to proceed two factors were critical to consider including: was proceeding at the lowest rate tested of interest to the City Council given the results and did community including stakeholder or industry consensus exist to be able to proceed.

City Manager Murray reiterated the scope of the meeting was the presentation of the results of the polling and observations from the consultants. No decision would be made by the City Council at this time. A public hearing had been scheduled for the June 7, 2022 City Council meeting where various options could be discussed as to next steps for a potential November ballot measure.

Responding to the City Council, Mr. Below clarified the value of split sampling using the long list in the ways the funds could be invested, as an example, which list was too long to reasonably read through. In order to get more into a survey sample they had used split sample "battery questions" making it more digestible for the respondents. Split sampling was also done when there was a similar theme and where it may be confusing to the reader, and split sampling was used so one was only hearing one version. In this case, split sampling had been done due to the testing of different amounts of tax rates. Questions had also been structured in such a way to allow for different responses.

City Manager Murray confirmed, when asked, that the PowerPoint presentation would be posted on the City website via the City Council meeting/agendas link and copies could be forwarded to Council members as well.

Ms. Lew clarified that public education was always helpful. The City's factual information about its vision, service delivery and policy decisions for why the measure may be placed on the November ballot would be extremely meaningful and credible than forms of political speech the City itself could not engage in. She reported that LEG had a 95 percent enactment rate for its measures and LEG tended to view survey results as a very solid indicator of what a likely outcome would be and why she suggested the calculus of risk and opportunity be one of several considered by the City Council. If true, as some cities had experienced, there was more or less community consensus and little significant opposition to a measure, the public education in that instance would be far more effective and compelling; however, with a well-funded opposition erosion would be seen.

Ms. Lew suggested while there was good news in the study it also impacted the ability to be successful should a real debate that was very rigorous be conducted on this measure. Based on the polling results, there was a level of trust in the City of Pinole not seen in other communities and no matter the decision of the City Council, she hoped the City Council would find the results encouraging.

Mr. Below again highlighted a bar chart as part of the PowerPoint presentation that detailed the most important issues identified by respondents with the top three priorities identified as maintaining fiscal accountability; keeping public areas and parks healthy, safe and clean; and protecting and maintaining essential City services.

City Manager Murray also acknowledged the City Council had previously discussed other items it wanted to see included in the poll with some items the City Council and a member of the public had requested, which information had been forwarded to the LEG and FM3 teams. The consultants had been tasked with making the decision on which questions should be included in the survey. Questions about an Ethics Board or Commission had not been included in the poll questionnaire since the consultants determined that question had been crowded out by other matters.

Ms. Lew confirmed the consultants had worked to provide a survey that was not too long and had decided not to use Ethics Board phrasing. They had captured a bit in an anecdotal description that many cities in California were organized under general laws while others were charter cities, specifically adopted by local voters, and giving a city more local control over municipal affairs and control over local revenue generation. While the survey had not tested an Ethics Board, it had evaluated the spirit of the reason why some cities had chosen to become charter cities, to place more control in the hands of the voters and the local community.

Mr. Below again described the methodology used for the survey questions, the survey was around 20-minutes in length, and the reasons why the test ballot measure included a range of 0.8 and 1.2 percent for the RPTT and 0.7 percent for the potential City of Pinole Road and Infrastructure Bond Measure, which had been based on conversations between staff and the consultant team.

Ms. Lew confirmed the range of costs had been discussed by the consultants and City staff and in both cases the current working protocols from significant archives of recent work over the past year. She suggested the description of payment was found to be fair and impartial for the legal requirement and easy to understand for each respective mechanism. The bond measure ballot question, as written and based on her experience, was the most user friendly way to describe a bond measure.

City Manager Murray explained that \$12/per thousand was where the 1.2 percent had come from and the research team suggested testing a high and low figure, with the lower figure chosen at 0.08 percent. The bond measure figure was not related to either figure, but the bond question was meant to model a similar rate of revenue generation as the high amount for the RPTT. He described a general obligation bond as an addition to regular property tax, an annual assessed valuation.

Mr. Below again walked through the results from the respondents who had initially been split on the proposed charter city amendment and RPTT measure with the rate either 0.8 or 1.2 percent making little difference in the responses, but clarified the respondents were not asked about both amounts but one or the other with half of the respondents asked about the 0.8 percent and the other half the 1.2 percent. Also, after explanation, respondents remained split but those saying "definitely yes" had grown. The supportive and critical statements for a RPTT were again highlighted. He clarified that respondents were not asked specifically a level of detail such as how they would feel in five years if nothing had been done knowing the City's infrastructure needs, as an example.

Ms. Lew explained the intent was to have a survey that would not be a shelf document but would be useful as a resource guide for the City Council. In response to comments about education, she noted that LEG had been successful for other clients for the two thirds requirement for infrastructure bonds with 18 to 24-months, and in some cases longer preparation for such measures. That would require a concerted focus and public engagement/dialogue/education effort of time with key benchmarks built in working backwards from future potential election cycles. When looking at the profound long-term infrastructure needs and the confidence that respondents had today, that type of dialogue needed to occur over time and frequently given where they were in terms of constituent response and perspectives.

Ms. Lew stated the consultant teams' goal was to be transparent and supportive of the City and enter their best professional perspectives and they were supportive of whatever final decision was

taken by the City Council. She commented that a public education effort would be comprised of robust communications with the public and noted the City had constitutional information and education rights, provided they were not advocacy or partisan in nature, and it was within the City's right to educate the public on policy matters, policy reasons for putting a measure(s) on the ballot and other types of facts. LEG provided a multidisciplinary approach and if the City Council were to act to place this measure on the ballot, LEG would develop a communications toolkit with user-friendly information including Frequently asked Questions, website information, engagement tools, speaker bureau engagement, whether on-line through Zoom or those organizations meeting in person, and content to LEG's best practices and the like, subject to review and approval of the City Attorney so they could conclude the content was permissible.

There could also be some communications with members of City leadership, paid digital communications along with old-school U.S. postal mailings with communication across the platforms, whether on-line, mailed or emailed information. In order to keep the communications permissible and be more factual in nature to protect the City and ensure they were providing permissible content LEG may excerpt from City official documents and cite recent survey results. In order for the communications to be permissible they would be framed within the context of providing municipal election information and LEG would be obligated to share other things that may be on the ballot at the same time. There would be a robust saturation of information that would typically include citation of the measure letter.

City Attorney Eric Casher agreed with the comments made and noted there were restrictions on the types of information that could be provided by the City, and legal statutes that prevented and prohibited the use of public resources for political purposes. The information to be provided to educate the public would be reviewed by the City Attorney's Office to ensure compliance with all legal standards and requirements.

#### **PUBLIC COMMENTS OPENED**

Rafael Menis, Pinole, asked that the PowerPoint presentation and raw data underlining the presentation such as cross tabs be made available to the public for analysis. He referenced some of the specific results from the polling effort and commented that questions regarding a Board of Ethics and transparency went beyond the boiler plate given back local control to cities as part of the ballot question, but suggested it would be worth considering as part of a separate question for the ballot measure, such as creating a greater level of transparency to address a core point of doubt for the community and create more information about the community state.

Mr. Menis found that respondents had little opinion on the management of the City's finances, a good data point to consider when 89 percent felt it was very important for the City to maintain fiscal accountability. He questioned why respondents were not given the option to consider "somewhat serious problem" as a response to some of the polling questions such as a lack of transparency of City government, where it may shift the view if included in that segment, or not. He also questioned whether candidates for public office may advocate for this ballot measure as the City as a whole would be.

City Attorney Casher clarified a candidate for public office, not a public official, may advocate for a ballot measure in a different way than City government with various restrictions on the use of public resources. A candidate for public office not using public resources would operate in their capacity as a private citizen and would not be under the same constraints.

Mr. Below again went over the respondents' responses to certain questions and noted the question structure was a bit different for different questions, with the results measuring slightly different things but which did not mean respondents did not want City transparency to continue, as an example.

Debbie Long, Pinole, found that while the presentation was informative it had not placed much emphasis on the charter city itself. While the City Council was only considering a charter city to increase the RPTT and did not intend to adopt all powers of a charter city it did not mean that could not occur in the future. She expressed concern the City Council was trying to sell the charter city question as a limited charter but there was no such thing. When a charter city was put forward to a vote it was most often for a singular purpose and down the road the City Council may avail itself to the full powers of a charter city, including the declaration in the charter that its intention was for the City to avail itself of the full power provided by the State Constitution to Charter Cities.

Ms. Long commented that charters were hundreds of pages long and the City Council had not discussed what that would look like. Trying to see this as a RPTT to be a charter city was disingenuous to voters. She reported that the NextDoor platform had a long post from Pinole residents opposed to a charter city for very good reasons. She planned to read those comments to the City Council but the comments had been removed, and not by the poster. She understood there were contingencies already planning to educate voters and there would be push back on a charter city which would be reflected in the poll numbers. She emphasized that people should be aware that the question being asked had not included the powers that would be provided to the City if this measure for a charter city were to pass and a RPTT would not fill the financial needs of the City since bonds would still need to continue down that path. While the entire story was not being told, she and others planned to educate the public.

City Attorney Casher clarified the charter city document was only around six pages or less in length.

Assistant City Attorney Alex Mog noted the document was only a page and a half in length and stated based on the City Council's previous direction in February 2022, the only power of the City would be to establish a RPTT and no other purpose but that could be changed in the future by the voters, although it was not part of the original draft to be reviewed.

City Attorney Casher cautioned that the City Council had not discussed or produced the actual charter measure but what had previously been directed to staff was to poll from the survey standpoint the interest in becoming a charter city for the sole purpose of enacting a RPTT. There were a number of different powers available to a charter city but they would have to be included in the actual ballot measure to be part of the charter and that was not what had been proposed.

Ms. Lew clarified the focus of the study had been to evaluate respondent interest in a charter city and RPTT measure and suggested a sufficient test had been provided to test the viability of both of those concepts.

Ms. Long understood the City of Vallejo had a 300-page charter and wondered if or when the City of Pinole adopted a charter if it became part of what the state offered to charter cities. She asked whether the National Civic League had been contacted since charter cities worked around ethics, which gave her the impression that in the future the City was looking at more than a charter city and increasing the RPTT.

City Attorney Casher was unfamiliar with the charter for the City of Vallejo but was familiar with many cities and their charter, some of which were long. The charter that had been proposed for Pinole would be very explicit and the only change to occur would be the City's ability to adjust the RPTT, with actual language in the draft charter that the City would maintain all of the existing rules provided for in the Municipal Code and City Manager chain of government. Staff would make sure that was clear unless the City Council directed otherwise which remained to be seen.

City Manager Murray understood the dialogue around an Ethics Board/Commission as mentioned by members of the public and the City Council in conversations about a charter city was around whether there was concern about any expansive set of powers allowed by a charter city, and one way to exhibit some additional control over a city's affairs was to establish an Ethics Commission. As to whether the City had any power or control over NextDoor, the City of Pinole was a subscriber to NextDoor and was able to post announcements but was not able to participate in dialogues. The City's participation as a public agency on NextDoor was very narrow.

#### **PUBLIC COMMENTS CLOSED**

Council member Martinez-Rubin clarified with the City Manager that an Ethics Commission would be independent whether the City established a charter city or not. She found the survey to be very focused and consistent with the City Council's discussions. Whether or not there should be a charter and facilitating the City being able to levy a RPTT had not been focused, and there had been a lot of discussion between the City Council and staff over the years that the City had insufficient funds to cover deferred maintenance of capital assets as well as Other Post-Employee Benefits (OPEB), which costs were the larger ticket items requiring millions a RPTT would be insufficient to cover. She suggested the City had to be more thoughtful on the approach to be taken in regards to investing all of the staff and consultant time and money on an effort that may or may not pass, and for a measure that seemed unlikely to be successful. She supported an approach on how successful a ballot measure related to a bond would be among the constituents.

Mayor Salimi understood the RPTT would require 50 percent plus one of the voters, whereas a bond measure required a two thirds vote or 66 percent. He agreed with the comments offered by Council member Martinez-Rubin but noted the revenue most come from somewhere.

Council member Toms recalled there was a lower threshold for a school bond passage related to Proposition 39, to which Ms. Lew advised that Proposition 39 allowed school bonds within a certain amount to proceed to the 55 percent requirement level, but no flexibility existed for cities. There was a litigated potential exception for that rule through a citizens' initiative although that was still in flux. At this moment, one had to presume a two thirds requirement measure threshold for an infrastructure bond if placed directly on the ballot by the City Council.

Council member Toms explained she had asked about a bond measure versus a RPTT since a RPTT only affected a buyer and seller whereas a bond would affect all property owners with more of a nexus for the expenditure of tax revenue split more equitably among those involved whereas a RPTT would not.

Council member Tave supported the RPTT. He again clarified the simple majority threshold and found the RPTT approach to be simple and only apply when someone sold their home, and that transaction like any other would include a tax. He found the RPTT to be a fair tax for people doing business in Pinole or real estate in Pinole and he found it unsettling that other cities around Pinole



had that extra revenue where Pinole did not. The City Council had shown and proven over time that fiscal matters were important and it was also important to citizens as reflected in the polling results. A RPTT required this discussion as part of the democratic process and he again suggested that the RPTT would have a minimal impact to those who owned, rented and lived in Pinole and would show benefit for years to come. In the long term, he was confident the RPTT would stay with the market as far as revenue from the RPTT, which was important for the City's future. He thanked staff and the consultants for all the information provided and looked forward to future discussions.

Mayor Salimi also thanked staff and the consultants and suggested that each Council member had to use their knowledge and wisdom along with the experience from the consultants wisely in making a decision based on how to reach the desired goal. He noted that while the polling results had not suggested the City move forward, as the consultants had stated, other cities had moved forward with lower responses that had increased as the public had become educated. He commented that what had not been discussed was providing a tax break as the City of El Cerrito had done by waiving its RPTT when homeowners decided to improve the sewer connection or other specific types of home improvements.

Mayor Salimi suggested the City Council should discuss a possible tax break which may dramatically change the outcome of the polling results and the ability for the City to consider a charter city and RPTT measure.

**6. ADJOURNMENT** to the Regular City Council Meeting of June 7, 2022 in Remembrance of Amber Swartz.

At 8:26 p.m., Mayor Salimi adjourned the meeting to the Regular City Council Meeting of June 7, 2022 in Remembrance of Amber Swartz.

**Submitted by:**



Heather Bell, CMC  
City Clerk

**Approved by City Council:**

